

RETURN DATE:	JUNE 11, 2019	:	SUPERIOR COURT
		:	
JASON COOLING		:	J.D. OF LITCHFIELD AT
		:	TORRINGTON
VS.		:	
		:	
CITY OF TORRINGTON		:	MAY 8, 2019

COMPLAINT

1. The plaintiff Jason Cooling was employed by the defendant City of Torrington as a police officer from February, 2008 until April, 2019.
2. At all times relevant the plaintiff was an “employee” of the City of Torrington as that term is defined in the relevant statutes claimed herein.
3. At all times relevant the City of Torrington was the plaintiff’s “employer” as that term is defined in the relevant statutes claimed herein.
5. At the time of hire, the plaintiff was an active member of the Marine Corps Reserve. He served concurrently in the reserves and was called to active duty for a combat deployment in 2011, taking military leave from March, 2011 to February, 2012. The plaintiff has served multiple tours overseas in both the Iraq and Afghanistan conflicts and he was wounded in action.
6. As a result of his military service, the plaintiff incurred multiple physical and mental disabilities including traumatic brain injury, post-traumatic stress disorder, anxiety and depression, migraine headaches, and chronic back pain. The plaintiff is a recipient of the Purple Heart.
7. As a police officer, the plaintiff was assigned to work the evening shift on a 5-2, 5-3 work schedule, meaning that he worked five days followed by two days off, followed, by five work days, followed by three days off. As a result, his days off rotated forward every two weeks. In this type of schedule, he had Saturdays and Sundays off consecutively three times every sixteen weeks. He had one weekend day off eight times during a sixteen-week cycle.
8. During his employment the plaintiff had been assigned as a K-9 dog handler since approximately September, 2012. He was also a member of the Special Response Team.
9. As a result of his disabilities as set forth above, the plaintiff had been required to use contractually-provided paid sick leave in order to properly

care for symptoms related to his disabilities as they occurred from time to time.

10. On or about January 18, 2017, the City of Torrington began an internal investigation of the plaintiff for alleged excessive absenteeism as a result of his use of contractual sick leave. He was notified of the charge on or about February 2, 2017. Approximately two days prior to this notification, the plaintiff had an informal meeting with the chief and deputy chief and advised them of ongoing stressors in his homelife. On February 8, 2017, the plaintiff informed his employer in writing that he required the legitimate use of contractually-provided sick leave in order to care for symptoms related to his disabling conditions as they arose from time to time. The plaintiff did not at any time misuse or abuse sick time. Up until that time, the plaintiff had not notified his employer of his disabling conditions because he did not believe that he was in need of any accommodations in order to perform the essential functions of his position, apart from his legitimate use of contractually-provided paid sick leave.
11. In speaking to other police officers, the plaintiff had been told by many of them that they had failed to comply with the employer's policy regarding sick usage, but they had neither been questioned nor investigated regarding their use of sick time. The plaintiff was being singled out for particular scrutiny, and he was the subject of disparate treatment by his employer when it came to enforcement of sick time usage policies.
12. Although the plaintiff had informed his employer during its internal investigation that he used sick leave for legitimate purposes related to his disabling conditions, he was issued a written reprimand for use of sick time and placed on sick-time probation meaning that his use of sick time would face additional scrutiny in the future. He was charged with "conduct unbecoming," a charge which asserts that he had acted in a way bringing the Torrington Police Department into disrepute, and that he had impaired the operation and efficiency of the Department. Such an allegation is untrue, and was made as a direct result of the plaintiff's disabilities and his attempts to accommodate those disabilities in accord with the collective bargaining agreement between the plaintiff's union and his employer.
13. After the plaintiff presented his employer with his written explanation for use of sick time on February 8, 2017, he was called into a pre-disciplinary meeting with the chief and deputy chief. At that meeting the plaintiff believed that they tried to intimidate him into not seeking accommodations by aggressively asking him questions about his disabilities and any accommodations that he might need. They asked the plaintiff if he was fit to perform his duties as a police officer, as a K-9 handler, and as an SRT member, implying that if he needed accommodations, he would not be fit, and therefore unable to continue earning a living. This was meant to

intimidate the plaintiff and prevent him from seeking to enforce his legal rights to accommodations.

14. The investigation and the subsequent discipline that was rendered to the plaintiff led to an increase in his depression and anxiety symptoms along with the physical manifestations of those symptoms. The plaintiff felt attacked for being disabled and he did not feel supported by the police department in his efforts to deal with his disabilities in an appropriate and professional manner. When he informed his employer of his disabilities, he was attacked, aggressively questioned, and tacitly threatened with loss of employment.
15. On March 8, 2017, the plaintiff's treating psychiatrist, Dr. P. Joksovic, MD, issued a letter to the Torrington Police Department stating that the plaintiff was being treated for anxiety and depression, and that he was receiving prescription medication and supportive therapy. Dr. Joksovic wrote that the plaintiff was stable and capable to function properly as a police officer with the help and support of his family. He wrote that "in order to continue with proper daily function" it would be recommended that the plaintiff have "regular daily shift schedule and/or no weekends as increased time spending with his family would go a long way for his ongoing stability."
16. Following the issuance of this letter, the plaintiff through his attorney, requested a meeting with the City so that they could engage in an interactive process to find an accommodation consistent with Dr. Joksovic's recommendations, that would allow the plaintiff to continue to perform the essential functions of his job as police officer.
17. On April 26, 2017, the plaintiff attended a meeting along with his attorney, the city's attorney, personnel director, chief of police and assistant chief of police. At that meeting the plaintiff requested that he be assigned to a vacant position in the narcotics division so that he could continue to utilize his K-9 who is a certified drug-sniffing dog, along with his training in narcotics enforcement. This assignment would allow the plaintiff to work a steady 5-2, 4-3 schedule with weekends off, and provide him with consistency in his scheduling and daily life, while permitting him to continue with his responsibilities as a patrol officer and K-9 handler. As an evening shift patrol officer and K-9 handler his responsibilities included a substantial amount of work with the narcotics unit, supporting the unit in its interdiction, investigatory, and enforcement functions.
18. For as long as the plaintiff had been employed as a police officer in the Torrington Police Department, the narcotics unit had operated with two certified police personnel. In April, 2017, one of the officers assigned to the narcotics unit was transferred out, creating a vacancy in the unit. Given the

plaintiff's training and knowledge, he would be a perfect fit for the vacancy, and assignment there would allow him to accommodate his disabilities as recommended by Dr. Joksovic.

19. Notwithstanding a vacancy in the narcotics unit, and the department's historical practice of assigning two officers to the narcotics unit, the police department declined the plaintiff's proposed accommodation, saying that it had chosen not to fill the narcotics unit position due to a lack of funding.
20. The department instead offered the plaintiff the option of remaining in his current assignment of an evening shift patrol officer, or moving to the day shift on a 5-2, 5-3 schedule. However, if the plaintiff was moved to the day shift, the department would not allow him to keep his K-9 unit. The plaintiff viewed this proposal as a "poison pill" in that the department knew that it would create great personal sorrow and dismay if the plaintiff's K-9 were taken away from him. The proposal was designed to harm the plaintiff rather than help the plaintiff in accommodating his disability, and was cruel in its delivery. The plaintiff was being punished for advising the department of his disabilities and his need for accommodation.
21. In June, 2017, after the plaintiff filed a complaint of disability discrimination with the CHRO, the plaintiff suffered a head injury as a result of being punched while performing his duties as a police officer for the defendant. The plaintiff reported the injury at the time of its occurrence, and he immediately felt targeted by the defendant for seeking to assert his rights to workers compensation benefits and for being disabled again.
22. At that time, the defendant tried to intimidate the plaintiff out of seeing his own physician, and ordered the plaintiff to treat with the defendant's physician for the injuries that he suffered. The plaintiff was also ordered not to treat with his own physician. When he arrived at the defendant's physician's office, a uniformed police captain was standing in the waiting room with his arms folded in an intimidating manner waiting for the plaintiff. Before the plaintiff was called in to meet with the physician, Captain Gonzalez was called in back and he met with the physician and discussed the plaintiff's case before the plaintiff was examined and treated by the physician. This conduct by the defendant represented ongoing and continuing harassment by the defendant.
23. Despite the plaintiff's revelation to the defendant's doctor of his poor physical condition and his medical concerns, the doctor wanted the plaintiff to return to work before he was physically able to do so. The plaintiff believed that the doctor was intimidated by Captain Gonzalez into requiring this.

24. Thereafter, in a continuation of the ongoing harassment, the plaintiff discovered in December, 2017, that a photograph of him with five fellow officers that was hanging in the departmental locker room for five years had been defaced. The photograph was taken upon the plaintiff's return from duty overseas in Afghanistan as a member of the U.S. military in 2012. The Officers in the photograph volunteered their time and escorted the plaintiff and his unit home, Torrington PD didn't send anybody, but they did approve those officers' request to escort the plaintiff home. The photograph had remained posted in the men's locker room of the department since the plaintiff's return. In late December, the plaintiff learned that somebody had placed a thumbtack through the plaintiff's face in the photograph, and the photograph remained posted in the locker room for between two and four weeks thereafter. Supervisors, including lieutenants and sergeants saw the defaced photo but took no action regarding it. The failure to take any action was an express endorsement by the leadership of the Torrington Police Department of the act of defacing the photograph. Poking the thumbtack through the picture of the plaintiff's head was designed to intimidate the plaintiff and show that he was "faceless" and not considered a member of the Torrington Police Department any longer because he was disabled and unable to return to duty. The pin was removed leaving what looks like a bullet hole in the center of the plaintiff's forehead, which the plaintiff reasonably took to be a threat.
25. At the time that the plaintiff learned of the defacing of the photograph he was looking forward to his return to duty as a police officer. However, the defacing of the photograph made the believe that harassment of him had continued while he was away, was endorsed by the command, and would continue and be ongoing and could potentially be characterized by violence as the defacing of the photograph was a violent act, in that it removed the plaintiff's head from the photograph. The action left the plaintiff humiliated and emotionally upset and concerned about his department accepting him when he was ready to return to work. He believed that he would be returning to a hostile and unsafe work environment.
26. Ultimately the plaintiff returned to work but was left uneasy about acceptance within the department. He commenced preparing for a new career, took college courses toward a degree in Emergency Management, and obtained a position with a firm in April, 2019. He then resigned from employment with the Torrington Police Department.
27. But for the pervasive, consistent, hostile and harassing work environment to which the plaintiff was subjected as set forth herein due to his disabilities, the plaintiff would have been willing and able to continue his career as a police officer with the City of Torrington.

28. By its illegally discriminatory and retaliatory actions as set forth herein, the defendant constructively discharged the plaintiff from his employment as a police officer.
29. The plaintiff filed his original complaint of discrimination with the CHRO on May 10, 2017 and he obtained a Release of Jurisdiction from the CHRO on April 25, 2019. He has therefore exhausted his administrative remedies and the court has jurisdiction over his claims herein.
30. By its actions as alleged herein the City of Torrington is in violation of Conn. Gen. Stats. Sec. 46a-60(b)(1) and 46a-60(b)(4). More particularly, the defendant has discriminated and retaliated against the plaintiff on the basis of a physical disability and/or perceived physical disability by taking the various actions as set forth herein, and thereby creating a hostile and harassing work environment, and leading to the constructive discharge of the plaintiff in April, 2019.
31. As a result of the City's wrongful and illegal conduct as alleged herein, the plaintiff has been caused to suffer damages including emotional distress, and harm to his reputation, and he has been caused to incur attorney's fees and costs in seeking to vindicate his rights to be free from discrimination. In addition as a result of his constructive discharge from employment, the plaintiff has suffered lost wages and benefits, past, present and future, and he has therefore sustained economic and non-economic monetary damages.

Wherefore, the plaintiff claims the following relief:

1. Monetary damages for economic and non-economic losses including but not limited to back pay and benefits; front pay and benefits; emotional distress, pain and suffering; and attorneys fees and costs;
2. Any such other remedies as may be awarded by statute; and
3. Such other relief as the court may deem appropriate.

THE PLAINTIFF,
JASON COOLING

/s/ 408630

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STATEMENT OF AMOUNT IN DEMAND

The Plaintiff asserts that the amount, legal interest or property in demand is fifteen thousand dollars or more, exclusive of interest and costs.

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